



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

February 24, 2009

REGISTERED MAIL
RB 670 439 824 US

Lake Stevens Sewer District
Attn: Darwin Smith, Manager
1106 Vernon Road, Suite A
Lake Stevens, WA 98258

RE: First Amendment to Administrative Order #5335, Sunnyside Wastewater
Treatment Facility project, Wetlands and Ebey Slough, Everett, Snohomish
County, Washington

Dear Mr. Smith:

Enclosed is an amendment to the Water Quality Certification issued on
February 14, 2008, for the above project.

If you have any questions, please contact Paul Anderson at (425) 649-7148. The
enclosed Amendment may be appealed by following the procedures described in the
Amendment.

Sincerely,

Geoff Tallent, Section Manager
Northwest Regional Office
Shorelands and Environmental Assistance Program

GT:psa:cja

Enclosure

cc: Jonathan Smith, U.S. Army Corps of Engineers
Matt Bennett, U.S. Army Corps of Engineers
Jamie Bails, Wa Department of Fish and Wildlife
Brenda Werden, Wa Department of Natural Resources
Karen Myers, U.S. Fish and Wildlife Service



Brett Farman, NOAA Fisheries
Claude Williams, Puget Sound Clean Air Agency
Ed Caine, Snohomish County Dept of Planning and Development Services
Roxanne Justice, City of Lake Stevens
Michael Jauhola, Gray & Osborne, Inc.
Jim Dougherty, Gray & Osborne, Inc.
Sean Curran, Curran Environmental Services, LLC
Keith Lynn
May Mar Aung Ko
Byron Parsons
Cloreta & Ronald Rodriquez
Dean Knight
Bruce & Jessica Brill
Malcolm Mcnaughton & Coreen Mcenery
Velda Myers
Murna Huber
Douglas Hageman
Richard & Jill Snow
Timothy Yates
Robert Hansen
Murna Willott
Mark & Christine Hinricksen
Andrew & Mary Stole
Solveig Vinje
Mary Petrelli
Terry Ion
Bernie & Glenn Grinnell
Esther Mckay
Jerold Wynne
Rex Ryan
Scott Packebush
Brian & Luanne White
Gabriel Rohweder
Kevin & Rhonda Blair
David Anderson
Owner or Resident, 818 72nd Dr SE, Everett, WA 98205
Scott & Jodi Rennie
Dan & Janet Peterson
Jeffrey Towne
Janice Drayton
Jacqueline Haase
Thomas Bosserman
Virgil & Anna Vincent
John Stewart & Kim Henderson
Lance Carleton
State Department of Game

Reid & Mary Carleton
Brian Huber
Owner or Resident, 925 Sunnyside Blvd SE, Everett, WA 98205
Owner or Resident, 1029 Sunnyside Blvd SE, Everett, WA 98205
Lake Stevens Sewer District
Owner or Resident, 630 Sunnyside Blvd SE, Everett, WA 98205
Owner or Resident, 1125 Sunnyside Blvd SE, Everett, WA 98205
William Cunningham
Owner or Resident, 1000 Sunnyside Blvd SE, Everett, WA 98205
Sharon TTEE Holtz
William Carleton
James Thrash
Robert Lundvall
Ralph & June Leber
Delores Kaiser
ROF Developments
Jim Leesy Hanson
Cowden
Gogal
Florence & Arnold Johnson
Skip & Neva Alf
Jeanne Sparks
Tim Kaintz
Owner or Resident, 11807 7th Ave NE, Lake Stevens, WA 98258
Cressell
Allen & Mary Swenson

e-cc: Rebekah Padgett – NWRO
Barbara Nightingale – NWRO
Laura Fricke – NWRO
Donna Podger – HQ
Christina Merten – NWRO
Chuck Steele – NWRO
Raman Iyer – NWRO

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

IN THE MATTER OF GRANTING A WATER QUALITY CERTIFICATION TO Lake Stevens Sewer District) ORDER #5335 First Amendment) Corps Reference No. 200600443) Sunnyside Wastewater Treatment Facility;) Wetlands and Ebey Slough, Everett, Snohomish) County, Washington.
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TO: Lake Stevens Sewer District
Attn: Darwin Smith, Manager
1106 Vernon Road, Suite A
Lake Stevens, WA 98258

This amendment is to the above-referenced Administrative Order approved and issued by the Department of Ecology (Ecology) on February 14, 2008.

This amendment is issued under the provisions of Chapter 90.48 RCW and Chapter 173-201A WAC.

Administrative Order #5335 is hereby amended as follows:

1. Project description that reads:

The proposal includes the permanent placement of fill in a total of 1.44 acres of wetlands for construction of the Sunnyside WWTF and attendant facilities. These impacts will be compensated for by: 1) purchasing 1.42 credits from the Skykomish Habitat Mitigation Bank, and 2) 0.02 acre of onsite wetland restoration.

Is replaced with:

The proposal includes the permanent placement of fill in a total of 1.44 acres of wetlands for construction of the Sunnyside WWTF and attendant facilities. These impacts will be compensated for by: 1) purchasing 1.42 credits from the Skykomish Habitat Mitigation Bank, and 2) 0.02 acre of onsite wetland restoration. Approximately 4 acres of unauthorized wetland filling and grading on Tax Parcels 29052300201800 and 29052300203400, owned by the Lake Stevens Sewer District, shall be removed and the site restored by the Lake Stevens Sewer District. Within 30 days of receipt of this amendment, the Lake Stevens Sewer District shall submit a restoration plan for this site to Ecology for review and approval.

2. Condition B2 that reads:

B2. In addition to mitigation measures described in the above-referenced documents, the following requirement shall be conditions for the development and mitigation sites:

- a. Proof of Mitigation Bank Credit Purchase: Prior to impacting wetlands, including buffers, associated with the construction of the project, the Applicant shall submit the following to Ecology:
 - i. A credit ledger listing the Corps number and Ecology Order Number, permit issuance dates, and the debited credits verifying credit withdrawal from the Skykomish Habitat Mitigation Bank.
 - ii. Documentation that credits applied to the project have been registered, with the Corps number and Ecology Order number assigned to this project and permit issuance dates at the Snohomish County Auditor's office.
- b. Timing: On-site mitigation work shall begin as early as site conditions allow following completion of the effluent outfall and construction of the replacement levee.
- c. Field Supervision: The wetland mitigation implementation shall be field-supervised by a qualified wetland ecologist to ensure that grading was completed as planned and plants are appropriately placed.
- d. As-built Report: Submit a final as-built report for the wetland mitigation projects, with drawings, to Ecology (per condition A2) within 60 days of completing construction, including planting.
 1. Provide one (1) electronic copy on compact disc and one (1) hard copy. Always prominently display the Corps Reference Number and Ecology Order Number.
 2. Include the following information in the as-built report:
 - i. Final site topography.
 - ii. Photographs taken from permanent reference points.
 - iii. Installed planting scheme with quantities, densities, sizes and approximate locations.
 - iv. Types of habitat features (snags, rootwads, etc.) and their locations.
 - v. Important dates including:
 - a. When the development project's construction began.
 - b. Starting and completion dates of the construction of the compensatory mitigation project, including grading and planting of the site.
 - vi. Name and contact information of the parties responsible for the mitigation site, including the applicant, landowner, and wetland professional on site during construction.
 - vii. Description of and reasons for any changes to the plan.
 - viii. Description of any problems that occurred during construction.
 - ix. List of any follow-up actions needed, with a schedule.
 - x. Copy of the deed notification.
- e. Permanent Protection: The Applicant shall provide documentation showing the means of permanent protection for the mitigation site (such as a deed restriction, conservation easement, or similar instrument) to Ecology's 401/CZM Federal Project Manager along with the as-built report.

- f. Performance Standards: The performance standards for the wetland mitigation shall be as listed in the Mitigation Plan, which details standards for plant survival and plant cover.
- g. Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as described in the Mitigation Plan. In addition, all mitigation monitoring shall take place over a period of at least five years, in years 1, 2, 3, and 5. If performance standards are not met in Year 5, additional monitoring shall be done in Year 7; and if performance standards are not met in Year 7, additional monitoring shall be done in Year 10. **Two (2) copies of all monitoring reports shall be submitted to Ecology per Condition A2.**
- h. Maintenance: Maintenance of the wetland mitigation sites is necessary to ensure that the required performance standards are met. Maintenance shall be performed as described in the Mitigation Plan.
- i. Year 5 Delineation: The mitigated wetlands shall be delineated using the 1997 Washington State Wetlands Identification and Delineation Manual (or as updated) during the 5th year monitoring period (or later as specified in B2.h. above) to determine the actual area of wetlands restored.
- k. Year 5 Rating: The 2004 Washington State Wetlands Rating System (or as updated) shall be applied to the mitigation area at the end of the monitoring period to determine the classification and rating of the restored wetlands.
- l. Contingency Measures: The Applicant is responsible for the success of the onsite mitigation and the maintenance of existing functions of wetlands to remain on the development site. Contingency measures described on pages 12 and 13 of the Mitigation Plan shall be implemented as soon as monitoring shows that one or more performance standards have not been met.

Is replaced with:

- B2. In addition to mitigation measures described in the above-referenced documents, the following requirement shall be conditions for the development, restoration and mitigation sites:
- a. Proof of Mitigation Bank Credit Purchase: Prior to impacting wetlands, including buffers, associated with the construction of the project, the Applicant shall submit the following to Ecology:
 - iii. A credit ledger listing the Corps number and Ecology Order Number, permit issuance dates, and the debited credits verifying credit withdrawal from the Skykomish Habitat Mitigation Bank.
 - iv. Documentation that credits applied to the project have been registered, with the Corps number and Ecology Order number assigned to this project and permit issuance dates at the Snohomish County Auditor's office.

- b. Timing: On-site restoration and mitigation work shall begin as early as site conditions allow following completion of the effluent outfall and construction of the replacement levee.
- c. Field Supervision: The wetland restoration and mitigation implementation shall be field-supervised by a qualified wetland ecologist to ensure that grading was completed as planned and plants are appropriately placed.
- d. As-built Report: Submit a final as-built report for the wetland restoration and mitigation projects, with drawings, to Ecology (per condition A2) within 60 days of completing construction, including planting.
 - 1. Provide one (1) electronic copy on compact disc and one (1) hard copy. Always prominently display the Corps Reference Number and Ecology Order Number.
 - 2. Include the following information in the as-built report:
 - xi. Final site topography.
 - xii. Photographs taken from permanent reference points.
 - xiii. Installed planting scheme with quantities, densities, sizes and approximate locations.
 - xiv. Types of habitat features (snags, rootwads, etc.) and their locations.
 - xv. Important dates including:
 - a. When the development project's construction began.
 - b. Starting and completion dates of the construction of the compensatory mitigation project, including grading and planting of the site.
 - xvi. Name and contact information of the parties responsible for the mitigation site, including the applicant, landowner, and wetland professional on site during construction.
 - xvii. Description of and reasons for any changes to the plan.
 - xviii. Description of any problems that occurred during construction.
 - xix. List of any follow-up actions needed, with a schedule.
 - xx. Copy of the deed notification.
- e. Permanent Protection: The Applicant shall provide documentation showing the means of permanent protection for the restoration and mitigation site (such as a deed restriction, conservation easement, or similar instrument) to Ecology's 401/CZM Federal Project Manager along with the as-built report.
- f. Performance Standards: The performance standards for the wetland mitigation shall be as listed in the Mitigation Plan, which details standards for plant survival and plant cover. The performance standards for the wetland restoration shall be as listed in the restoration plan, which shall detail standards for hydrology, plant survival, and plant cover.

- g. Monitoring: Monitoring to ensure that the project performance standards are met shall be performed as described in the restoration plan and Mitigation Plan. In addition, all restoration and mitigation monitoring shall take place over a period of at least five years, in years 1, 2, 3, and 5. If performance standards are not met in Year 5, additional monitoring shall be done in Year 7; and if performance standards are not met in Year 7, additional monitoring shall be done in Year 10. **Two (2) copies of all monitoring reports shall be submitted to Ecology per Condition A2.**
- h. Maintenance: Maintenance of the wetland restoration and mitigation sites is necessary to ensure that the required performance standards are met. Maintenance shall be performed as described in the Mitigation Plan.
- i. Year 5 Delineation: The restored and mitigated wetlands shall be delineated using the 1997 Washington State Wetlands Identification and Delineation Manual (or as updated) during the 5th year monitoring period (or later as specified in B2.h. above) to determine the actual area of wetlands restored.
- k. Year 5 Rating: The 2004 Washington State Wetlands Rating System (or as updated) shall be applied to the restoration and mitigation area at the end of the monitoring period to determine the classification and rating of the restored wetlands.
- l. Contingency Measures: The Applicant is responsible for the success of the onsite mitigation and the maintenance of existing functions of wetlands to remain on the development site. Contingency measures described on pages 12 and 13 of the Mitigation Plan shall be implemented as soon as monitoring shows that one or more performance standards have not been met.

No other conditions or requirements of the above-mentioned Order are affected by this Amendment. The Department of Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amendment may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amendment.

Appeal Process

You have a right to appeal this Amendment. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the “date of receipt” of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the “date of receipt” of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). “Date of receipt” is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

1. To file your appeal with the Pollution Control Hearings Board

Mail appeal to:

The Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Deliver your appeal in person to:

OR The Pollution Control Hearings Board
4224 – 6th Ave SE Rowe Six, Bldg 2
Lacey, WA 98503

2. To serve your appeal on the Department of Ecology

Mail appeal to:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, WA 98504-7608

Deliver your appeal in person to:

OR The Department of Ecology
Appeals Coordinator
300 Desmond Dr SE
Lacey, WA 98503

3. And send a copy of your appeal to:

Department of Ecology
Northwest Regional Office
Attn: Paul Anderson
3190 160th Avenue SE
Bellevue, WA 98008

For additional information visit the Environmental Hearings Office Website:
<http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:
<http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Amendment. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

Dated February 24, 2009 at Bellevue, Washington.



Geoff Tallent, Section Manager
Shorelands and Environmental Assistance Program
Department of Ecology
State of Washington